13, at 5-6). Accordingly, the stipulating parties allocated the amount of $10,258,000 of the overearnings to the interstate jurisdiction in recognition that a portion of Western Reserve's overearnings came from interstate rates (Staff Ex. 5, at 2). The Commission concludes that the stipulation adopts a rate design which recognizes the results of both intrastate and interstate operations and that $10,258,000 in interstate revenue no longer exists. No total-company, test-year expense or revenue has been adjusted; rather, the rates have been designed to reflect an allocation of over-earnings to the interstate jurisdiction. The Commission is aware of no requirement that rates must be designed in accordance with the test-year concept. Finally, OCC has argued that there has been no showing that the amount of overearnings attributable to the interstate jurisdiction is anywhere near $10,000,000. The figure used in the stipulation is based squarely on the record and is the only amount contained in the record. The Commission will, therefore, recognize the $10,258,000 amount as stipulated by the parties.

Finally, even if the $10,258,000 were deemed to be a post test-year adjustment, which it is not, it would not be an impermissible post test-year adjustment. This is not a rate case in which an applicant utility with control over the choice of the test period proposes a selective adjustment to capture an out-of-period expense increase in order to increase the revenue requirement. See Consumers' Counsel v. Pub. Util. Comm., 67 Ohio St. 2d 372 (1981). Western Reserve did not choose the test year; the Commission did. Neither did Western Reserve have any control over OCC's choice to file its complaint. Thus, Consumers' Counsel, supra., is not applicable. The more appropriate analogy is to Board of Commissioners of Montgomery County et al. v. Pub. Util. Comm., 1 Ohio St. 3d 125 (1982). In Board of Commissioners, the court held that Section 4909.15(D), Revised Code, gives the Commission authority to smooth out anomalies in the ratemaking equation that tend to make the test-year data unrepresentative for ratemaking purposes.[2] In this case, the company converted from an average schedule company to a cost company in the NECA pools as of January 1, 1994, and is now receiving interstate settlements from the NECA pools based on its 1992 separations cost study. This is a known change beyond the test year, as it has already happened. Further, all parties, including OCC, concede that the conversion has occurred and that the company's interstate settlements will be

2. Although the Board of Commissioners case must be read narrowly as the court intended, it is applicable in a case such as this where the Commission is attempting to determine the level of a company's earnings on a going forward basis based on a test year not of the company's choosing.

lower than they were during 1992. Thus, even if it were determined to be an out-or-period adjustment, the Commission must recognize it to make the test-year data representative for purposes of determining the level of appropriate new rates. To ignore it would lead to the anomalous result of the Commission reducing rates through a complaint proceeding but then having to turn around and consider a potential request by the company to raise rates to meet the new intrastate revenue requirement. Established law supports including an adjustment in the company's revenue requirement calculation. OCC's objection should be overruled.

OCC next argues that the company's decision to convert to cost-based settlements was an imprudent one and, thus, the $10,258,000 revenue reduction should not be recognized. According to OCC, Western Reserve's conversion to cost for settlement purposes benefits no one. It does not benefit the company because movement to cost-based settlement reduces the company's revenues. OCC contends that the decision does not benefit interexchange carriers because Western Reserve is still a member of NECA's pools and continues to concur in the NECA tariff filed at the FCC (WR Ex. 15, at 21). Accordingly, although the company receives its settlements based on its own costs, the interexchange companies are billed at the NECA tariff rate based on the pool members' average costs. The interexchange companies will continue to be billed under the NECA tariff until the company files with the FCC its own traffic-sensitive, cost-based access tariff. Therefore, OCC argues that there will be no savings for the interexchange carriers to pass on to the end users (OCC Brief at 25).

As noted earlier, company witness Mitchell testified that the company is facing increasing pressure from its interexchange customers to reduce the levels of its access charges as competition has grown in the interstate toll market. Access charge reductions will allow the interexchange carriers to reduce end-user toll rates, stimulate usage, and provide for more efficient use of the network (WR Ex. 7, at 9-10). Company witness Staurulakis testified that a company's desire to reduce its access charges and enhance its competitive position is not an imprudent business decision (Tr. XII, 17). According to the witness, converting to cost-based interstate settlements is a first and necessary step for the company to reduce interstate access charges. As a result of Western Reserve's conversion to cost, the NECA's revenue requirement will be reduced and its average-cost tariff will be somewhat lower within six months; however, the tariffing of company cost-based access rates at the FCC will significantly reduce the company's traffic-sensitive access rates. The company has indicated that it intends to leave the NECA traffic-sensitive pool and file its own cost-based, traffic-sensitive tariff at the FCC conditioned on this Commission's authorization to discontinue mirroring of traffic-sensitive, intrastate access charges (WR Ex. 7, at 14). Although the immediate ratepayer benefit of these reduced rates will be experienced by the interexchange carriers, competitive pressures could force the interexchange carriers to pass benefits on to residential and business end users.[3] This rationale was confirmed by the long distance carriers (AT&T Ex. 1, at 9; IXC Coalition Ex. 2, at 4). Company witness Mitchell also indicated that cost-based settlements are a necessary step to avoiding by-pass by the company's larger customers (WR Ex. 7, at 10).

Based on the evidence cited above, the Commission cannot find the company's actions to be imprudent. The conversion to cost-based settlements is the first step in reducing access charges to long distance companies which, in turn, will stimulate competition in the interstate market. And, although there is no guarantee that toll rates in Ohio will be reduced because access charges have been reduced (AT&T Ex. 2, at 4), historically, AT&T has responded to decreased expenses by reducing rates, introducing new services to meet specific consumer and business needs, and offering a variety of promotional and discount plans. AT&T has reduced its message toll service rates since 1984 by more than 28 percent (AT&T Ex. 1, at 9). As detailed in the previous footnote, the company's actions will assist in providing the same types of benefits in the future.

OCC's last argument concerning the interstate settlement process is that Western Reserve's decision to receive settlements from NECA based on cost should not affect the company's revenue requirement in the complaint case because it does not constitute FCC action separating the company's interstate and state revenue requirements as based on separated costs. OCC's approach, called "total-company ratemaking" or "residual ratemaking", takes the total-company revenue requirement and subtracts the interstate revenues. The remainder constitutes the intrastate revenue requirement. This methodology has been validated for average schedule companies by the FCC, Mid-Plains Telephone Co. Inc., Petition for a Declaratory Ruling Regarding the Commission's Part 36 Separations Procedures, 5 F.C.C.R. 7050 (1990), and by a federal district court, Crockett Telephone Co. v. FCC, 963 F.2d 1565 (D.C.

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3. Although we do not find the stipulation unreasonable, we do expect the interexchange carriers, over a reasonable time period, to flow these benefits through to the company's ratepayers. The intraLATA 1+ presubscription process contained in the stipulation provides a perfect opportunity for the IXCs to craft special innovative rate packages which flow specific benefits to Western Reserve customers for their short haul toll service. The Commission will monitor this situation and will consider the IXCs track record on implementing same in the future when considering their claims in other cases, including EAS and alternative regulation proceedings.

Cir. 1992). Under the total-company methodology, Western Reserve's test-year average schedule NECA revenues would be subtracted from the total-company revenue requirement, leaving the entire revenue excess to be absorbed by reductions in intrastate revenues. This methodology is fair when a low-cost company such as Western Reserve receives its interstate revenues based on average company costs, as it prevents a double recovery of costs.

It is OCC's position that the Ohio Commission may use total-company ratemaking until the time the FCC affirmatively approves a cost-based tariff for Western Reserve. Until that time, according to OCC witness Rafferty, the conversion to cost-based settlements has no regulatory significance. Stated a different way, Dr. Rafferty believes that the change in NECA settlements has no effect on the separation of jurisdictional costs (OCC Ex. 12, at 8-13).

On the other hand, Western Reserve argues that separation of jurisdictional costs occurred when the company converted to a cost company and began receiving settlements from NECA on a cost basis (WR Ex. 15, at 10-14). Under these circumstances, Western Reserve contends that this Commission cannot use total-company ratemaking, but must base intrastate rates on the intrastate jurisdictional costs. The company cites the court in Crockett, supra, where it stated that each state has great freedom to regulate intrastate rates, but once the FCC has applied its jurisdictional separation, the part of the cost base deemed to be interstate is outside the reach of the state commission.

The Commission must admit that the parties' arguments on this issue are confusing. Although much time was spent at the hearing and on brief painstakingly arguing the jurisdictional separations issue, and whether total-company ratemaking may or may not be used by the Commission, the stipulation itself uses an essentially total-company approach. The stipulation states at the outset that, on a total-company basis, the company's revenues exceeded amounts which were reasonable. Further, the stipulation is based on staff witness Hensel's total-company analysis (Staff Ex. 3 and 4). Therefore, the Commission believes that this issue is not as difficult or complicated as the parties seem to believe. The real issue is whether or not the Commission should recognize the revenue effect of the company's decision to receive settlements on a cost basis.

No party questions that Western Reserve, as of January 1, 1994, is receiving its interstate settlements on a cost basis. The record reflects that, as of that date, the company is receiving $10,258,000 less revenues per year. These revenues are no longer available to Western Reserve and should no longer be considered by the Commission in determining the level of excess earnings which the Commission must remedy in the context of these proceedings. If the Commission were to accept OCC's arguments, the same excess revenues would be eliminated twice, once when the company began receiving settlements on a cost basis, and again when the overearnings were recognized in the Ohio intrastate jurisdiction. This result in not fair or logical and will not be adopted by the Commission. The $10,258,000 revenue reduction will be recognized by the Commission. Further, the Commission believes that the calculation of the $10,258,000 based on jurisdictionally separated costs is fully supported by the record and appears reasonable. Accordingly, the Commission concludes that the allocation of $10,258,000 in test-year revenues to the interstate jurisdiction as provided for in the stipulation is reasonable and should be adopted.

4. <u>Intrastate Rate Design</u>:

The stipulation provides for a phased, intrastate access charge reduction of $6,200,000 in the first year, $2,200,000 in the second year, and $2,400,000 in the third year, for a total permanent reduction of intrastate access charges of $10,800,000. Tel-Touch charges for residential customers will be eliminated, and conversion charges will be waived. The elimination of the Tel-Touch charges will reduce intrastate revenues by $2,200,000 (Id.). Further, under the stipulation, the company will implement free one-way calling to state-chartered schools from the company's customers for a revenue reduction of $150,000. The stipulation also provides for a basic local exchange rate reduction for schools which will reduce revenues by $100,000 (Jt. Ex. 1, at 2).

According to OCC, the revenue reductions set forth in the stipulation are unsatisfactory. OCC believes that the only substantial reduction that will benefit end users will be the Tel-Touch reduction. This will benefit approximately 70 percent of residential end users in the amount of $2.00 per month. Free one-way school calling and the reduction in schools' rates amount to only $250,000 (OCC Brief at 33). OCC believes that the interexchange carriers should not get the stipulated access rate reductions because they do not need the revenues and are unlikely to pass any savings on to end users. Thus, OCC contends that the stipulation is not in the public interest, but only in the interexchange carriers' interest.

OCC witness Rafferty testified that it is not appropriate to reduce intrastate access charges. He indicated that Western Reserve's favorable revenue and income position is due to the strong and inelastic demand for exchange access. According to the OCC witness, significant portions of Western Reserve's territory are prosperous suburban communities that generate and receive a large number of toll calls. According to Dr. Rafferty, it is necessary to price some services above their service incremental costs in order to generate contribution sufficient to cover the company's fixed costs. Because of the strength and growth in demand for access services, an appropriate rate design should recover substantial contribution from access charges in Dr. Rafferty's view.

Finally, Dr. Rafferty recommends that all reductions in current rates should benefit end users. Because, in Dr. Rafferty's view, there is little reason to believe that toll carriers will pass on any savings to end users, he recommends that reductions in access charges are inappropriate (OCC Ex. 2, at 25, 28-29; OCC Ex. 12, at 14).

The Commission finds that the intrastate access charge reductions proposed in the stipulation are reasonable and supported by the record. The stipulation moves access charges toward cost without any increase in other rates. In addition, residential customers share in the stipulated revenue reduction through the elimination of the Tel-Touch service charge and the free one-way calling to schools. Moreover, we cannot lose sight of the fact that before us is a stipulation approved by many diverse parties and recommended by the staff. In such a case, if we find the overall stipulation reasonable as a package, and particularly given the fact that no basic rate increases are proposed, we need not determine the exact level of cost of various services as we might have had to do had no stipulation been reached. The stipulated rate reductions are reasonable as a package and should be implemented.

5. <u>Complaint Conclusion</u>:

The Commission concludes that OCC has met its burden of proving that, since the company's last rate case, the company's revenues have increased and its expenses decreased, resulting in excess earnings of more than $10,000,000 annually and that the Commission should order reductions in rates to just and reasonable levels. OCC has not demonstrated that its proposed remedy, i.e. the specific rate reductions it proposes, are sufficiently supported on the record to render the entire stipulation unreasonable. The rate reductions provided for in the stipulation are supported by the record, produce just and reasonable revenue reductions, and should be adopted. OCC's complaint should be granted, in part, and denied, in part, consistent with the discussion in this opinion and order.

B. <u>Provisions of the Stipulated Plan</u>:

1. <u>Rates In General</u>:

Western Reserve CAPs advocated that the "launching pad for any alternative regulation plan must be reasonable rates". Thus, in their view the determination in the complaint case filed by OCC is an essential predicate to the Commission's consideration of the proposal presented in the alternative regulation case (WR CAPs Brief at 2). The Commission has resolved the complaint case thus satisfying this concern.

OCC and Western Reserve CAPs raise a variety of other concerns which they believe preclude adoption of the stipulation. In OCC's view, the long-run service incremental cost (LRSIC) test set forth in the alternative regulation rules was adopted by the Commission in order to ensure that services other than those in Cell 1 were recovering their incremental costs and that they were appropriately contributing to the joint and common costs. With regard to pricing of services under the stipulated plan, OCC argued that the plan does not include a mechanism to ensure that these two cross-subsidization goals are met (OCC Brief at 49-50).

OCC witness Rafferty advocated that a cost allocation mechanism be added to the stipulated plan. According to Dr. Rafferty, the cost allocation mechanism would segregate the competitive services from the monopoly services, thus, giving Western Reserve an opportunity to succeed in its competitive endeavors while at the same time protecting the monopoly ratepayers from those competitive activities which are profitable. Dr. Rafferty stated that "cost allocation focuses and intensifies regulatory attention on the portion of the revenue requirement and rate base associated with the critical bottlenecks that impede the growth of competition and the deployment of new technologies." In Dr. Rafferty's view, this provides progressive deregulation on a service-by-service basis as competition develops (OCC Ex. 3, at 14-15).

Western Reserve CAPs pointed to the language contained in the entry on rehearing in Case No. 92-1149-TP-COI at 17-19 to support their position that: a nonearnings and nonsharing plan which provides for increases in basic local exchange services must satisfy a higher standard of review to be approved; an applicant must show, through cost of service information, that Cell 1 services will not be responsible for more than their appropriate overhead costs; and a plan must contain cell classifications and supporting cost information which would permit a review of the overhead costs for Cell 1 services (WR CAPs Brief at 4-5). It is the view of the Western Reserve CAPs that the stipulated plan fails to set forth any of the preceding items which are required in an alternative regulation proposal. Furthermore, contrary to the Commission's alternative regulation rules and as testified to by company witness Cornacchione, the stipulated plan permits Western Reserve to enter into individual contracts for services that would fall under a Cell 3 classification (Id. at 7; Tr. IX, 123).

According to the Western Reserve CAPs, the stipulated plan, which provides for flexible pricing in accordance with 944/1144, offers no response to the concerns which have been raised about the pricing of bundled monopoly or Cell 1 services by both the staff (S.R. at 4) and Dr. Selwyn (WR CAPs Ex. 4, at 38-43). Dr. Selwyn recommended that the commitment to unbundle the local network should be a component of a company's alternative regulation plan (Id. at 85). In addition, Western Reserve CAPs pointed out that the stipulated plan does not address Section XIV(B) of the alternative regulation rules which requires a plan to include limits on permitted frequency of price changes for Cell 1 services. The Western Reserve CAPs point to the entry on rehearing in Case No. 92-1149-TP-COI at 26 for support for their position that all services must be classified (WR CAPs Brief at 6). They proposed that, if the company wishes to engage in flexible pricing or use competitive response contracts, the Commission should keep Case No. 93-230-TP-ALT open for the purpose of placing the services of the company into cells (WR CAPs Reply Brief at 9).

Finally, the Western Reserve CAPs submitted that the stipulated plan failed to address the revenue which would be foregone as a result of the provision in the plan permitting promotional offerings (WR CAPs Brief at 10). While staff witness Montgomery testified that the forgone revenue should be borne by the shareholders, he went on to state that he did not recall the stipulating parties addressing that issue (Tr IX, 116-117).

Conversely, the company maintained that the alternative regulation rules do not require that services be classified according to cells. In the company's opinion, the provisions in the rules referring to "Cell 1 services" have a definitional meaning whether the services are classified or not (WR Brief at 31). Furthermore, the company pointed out that Section III(C)(3) of the alternative regulation rules pertaining to cell classifications refers to exhibits required for the filing of an alternative regulation plan. The initial plan did classify services and, in the view of the company, the fact that the stipulated plan does not classify services is neither unreasonable nor prohibited by the rules (WR Reply Brief at 33).

Initially, the Commission finds that the objection raised concerning the fact that the stipulated plan does not place the services provided by Western Reserve into specific cells as defined by the alternative regulation rules to be unfounded. The Commission acknowledges that the rules governing a company's filing for alternative ratemaking treatment set forth certain minimum requirements which must be present in the initial filing of a company's application. However, the rules also provide for the filing of waivers to requirements set forth in the rules, as well as the possibility that parties may enter into partial stipulations. The Commission fully supports and encourages parties in contested cases to come together in an effort to resolve cases. To say that such negotiations must result in the final product being identical in format and content to the proposal submitted by the applicant company, or to say that a stipulation must contain all of the elements set forth in the alternative regulation rules would be to completely forestall any possible settlement in the case and circumvent the purpose behind the Commission's alternative regulation rules.

The alternative regulation rules were developed, in part, to permit the large local exchange telephone companies (LLECs) additional pricing flexibility with regard to their services in light of the emerging competitive environment in the telecommunications industry. The provision of cell classifications, as set forth in the rules, was designed to provide LLECs with such flexibility. However, the rules also set forth certain safeguards, including the LRSIC test, which were developed to ensure that services not classified in Cell 1 were, in fact, recovering their incremental costs. We made it quite clear in our entry on rehearing in Case No. 92-1149-TP-COI at 18 that we would utilize whatever costing methodology we deem necessary and appropriate in determining the reasonableness of Cell 1 services and that we would not permit Cell 1 services to be responsible for any more than their appropriate overhead costs. The fact that the stipulating parties did not include either cell classifications or a costing methodology for services provided by the company within the context of the stipulated plan does not mean that the Commission will not ensure that the appropriate costing mechanism is examined and applied for each of the company's proposed services. The stipulated plan provides that the company's provision of new services and contracts and the pricing thereof will be governed by 944/1144. Western Reserve has been offering new services under the well-established processes contained in 944/1144, and the Commission will continue to review the company's proposed services and scrutinize them in the manner appropriate to ensure that the services are appropriately priced above cost.

Specifically, with regard to the issue raised by the Western Reserve CAPs concerning the unbundling of services into monopoly and nonmonopoly components, as we have stated in the past, we strongly encourage the unbundling of services. The fact that Western Reserve will be following the 944/1144 procedures, rather than the cell classification mechanism set forth in the alternative regulation rules, does not mean that the Commission will discontinue its efforts to encourage companies to unbundle services where appropriate.

Furthermore, the Commission finds that there is no basis to the concern raised by the Western Reserve CAPs, that the stipulated plan does not address who will bear the revenue foregone as a result of the provision of promotional offerings. Staff witness Montgomery correctly pointed out at the hearing that such foregone revenues should be borne by the shareholders of the company. This continues to be the view of the Commission on such promotional offerings.

2. Earnings Review:

The stipulated plan provides that, except upon the application of Western Reserve, the Commission shall not initiate a formal earnings review or adjustment proceeding relating to the company during the initial term of the stipulated plan. However, Western Reserve would be subject to any decision which the Commission may implement in a generic proceeding involving all local exchange companies (Jt. Ex. 1, Attach. 1, at 13).

According to OCC, while the alternative regulation rules require that a company's earnings should be addressed in certain circumstances, the stipulated plan does not address Western Reserve's future earnings. In general, it is OCC's view that "earnings sharing is in the public interest, especially where a cost allocation mechanism is not adopted" as in the stipulated plan (OCC Brief at 50). In addition, Western Reserve CAPs witness Selwyn stated that "[a]n earnings sharing mechanism is essential to ensure that ratepayers benefit from an alternative regulation plan" (WR CAPs Ex. 4, at 6).

OCC recommended that the Commission not accept the stipulating parties' proposal for the Commission to forgo initiating any earnings review of Western Reserve during the initial term of the plan (OCC Brief at 51). OCC witness Rafferty described the effects of a failure to review Western Reserve's earnings by stating that "Western Reserve's overearnings will rise as demand for telecommunications increases (despite the inflated prices). Western Reserve may also obtain a windfall from productivity advances in telecommunications.... [a]s such, Western Reserves rates will become even more unjust and unreasonable over time." (OCC Ex. 3, at 24).

Dr. Selwyn advocated that Western Reserve should be required to include a sharing mechanism above a benchmark rate of return in its plan (WR CAPs Ex. 4, at 68). The Western Reserve CAPs submitted that a plan which permits increases in basic local exchange service rates, but is not based on an earnings methodology and does not contain an earnings sharing mechanism must be shown to be as beneficial to customers as a filing pursuant to traditional regulation under Section 4909.15, Revised Code (WR CAPs Brief at 6).

Given the numerous rate adjustments and other commitments set forth in the stipulation, as well as the plan, the Commission believes that the concern raised by the objecting parties pertaining to the fact that the plan provides that the Commission shall not initiate an earnings review or adjustment during the three-year term of the plan is not sufficient to overturn the entire stipulation. Considered as a whole, the stipulation provides sufficient opportunity for the Commission and its staff to monitor the company's progress during the initial term of the stipulated plan. The company will be filing progress reports and the staff will have access to the necessary information for reviewing the progress of the plan. Furthermore, the fact that the plan limits the initial term to three years permits the Commission sufficient opportunity to monitor the application of the plan and then determine whether changes or adjustments to the company's rate of return need to be made in the future.[4]

3. __Exogenous Factors:__

The alternative regulation rules define exogenous as "cost changes that originate from or are due to external causes, including, but not limited to, tax law changes, depreciation represcription, and changes to separations and accounting rules." Section XII(B) of the alternative regulation rules provides that, for Cell 1 services, the Commission will permit the company to include a provision in its plan for an increase in rate or price structure, or rate changes due to exogenous factors, as long as the plan also addresses the company's disposition of its earnings in excess of its cost of capital.

Pursuant to the stipulated plan, if a material reduction in the net after tax operating income of Western Reserve occurs during the initial term of the plan as a result of an exogenous change, then the company may apply to the Commission to suspend the commitments set forth in the plan pertaining to price freezes and reductions, infrastructure development, and reductions in the intrastate, traffic-sensitive, local switching access charges to the extent that such commitments have not been implemented at the time of suspension. However, should the company suspend such commitments, it would also be obligated to initiate a traditional ratemaking proceeding. As set forth in the stipulated plan, exogenous changes include: the enactment of new statutes, rules, or orders, or amendments thereto; acts of God or force majeure; and accounting changes mandated by the Commission, the FCC, or FASB (Jt. Ex. 1, Attach. 1, at 14-15).

Western Reserve CAPs witness Selwyn, in response to the initial plan, stated that he did not believe the company's proposed treatment of exogenous costs to be reasonable (WR CAPs Ex. 4, at 21). In OCC's view, Dr. Selwyn's testimony on this issue still applies to the exogenous factors provision set forth in the stipulated plan (OCC Brief at 52). According to Dr. Selwyn, the exogenous factors proposal creates an opportunity for asymmetry in that Western Reserve would be seeking adjustments to its rates to reflect events that would increase its costs; however, the plan

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4. Inherent in our alternative regulation rules is the concept of flexibility based on a particular company's circumstances and the nature of their proposed plan. Because this matter is before us on a stipulated basis, the Commission intends to create no precedent, one way or the other, on the earnings sharing issue raised by the objecting parties.

fails to obligate the company to notify the Commission of events that would decrease the company's costs. Thus, in Dr. Selwyn's view, since the plan failed to create a symmetric obligation, the exogenous factors proposal is "adverse to the public interest and appears to contradict directly the Commission's directives." (WR CAPs Ex. 4, at 22). The Western Reserve CAPs opined that the exogenous factors provision coupled with the bar on earnings review and rate adjustments places customers in a no-win situation against Western Reserve (WR CAPs Brief at 5).

Western Reserve maintained that the exogenous changes provision contained in the stipulated plan does provide for the symmetry required by the alternative regulation rules, as well as the order in Case No. 92-1149-TP-COI at 24. As pointed out by the company, as a result of the suspension of any commitments pursuant to this provision of the stipulated plan and the requisite initiation of a traditional ratemaking proceeding, rate reductions may, in fact, occur. Furthermore, the company is still obligated to adhere to results of any industry-wide generic proceeding initiated by the Commission (WR Brief at 33; Jt. Ex. 1, Attach. 1, at 14).

In our order in Case No. 92-1149-TP-COI at 27, we stated that a company proposing to make Cell 1 rate changes during the course of its plan which reflect exogenous factors must address the matter in its plan and propose the procedures to be used in evaluating such a request. Furthermore, we stated that a company's proposal concerning exogenous factors must be symmetrical and provide for rate increases or decreases based on exogenous factors. Upon review of the exogenous factors provision contained in the stipulated plan, the Commission finds that it appears to be both reasonable in its proposed application and symmetrical as envisioned by the Commission. As provided in the stipulated plan, concurrent with the company's suspension of the commitments set forth in the plan, the company would initiate a traditional ratemaking proceeding pursuant to Sections 4909.18 and 4909.19, Revised Code. In light of the fact that the traditional ratemaking proceeding was commenced due to the employment by the company of the exogenous provision in the stipulated plan, the Commission could take in consideration the earnings status of the company in our final determination in that proceeding. Furthermore, the Commission notes that at anytime during the course of the stipulated plan we could, through an industry-wide, generic proceeding, require that savings realized by the company be flowed back to the benefit of its customers.

4. <u>Commitments</u>:

Section IV(A) of the alternative regulation rules requires that a proposed plan must include commitments. The rules define a commitment as "an obligation to provide services or enhance their value to customers pursuant to a company's approved alternative regulation plan." Section IV(B) of the alternative regulation rules states that the commitment section of a proposed plan shall include: a description of each commitment and how it relates to the other parts of the plan; a time table for completion of the commitment; project expenditures; a method for tracking the progress of a commitment; a demonstration that the commitments are consistent with the policies of the Ohio Revised Code; and a demonstration that the commitments are in addition to the minimum telephone service standards.

In the stipulated plan, as spelled out in more detail therein, Western Reserve commits to the following: various rate reductions and freezes; retention of flat-rate, basic local exchange service; technology deployment; educational application and distance learning initiatives; implementation of extended local calling service (ELCS) in some areas; phase out of multi-party service; customer education programs; number portability; and universal service initiatives (Jt. Ex. 1, Attach. 1, at 5-11).

OCC maintained that the Commission should reject the stipulated plan because the commitments set forth in the plan are not in the public interest and fail to comply with the Commission's alternative regulation rules and requirements (OCC Brief at 56). OCC advocated that the merits of each commitment should be evaluated both individually and as a whole (Id. at 76). Western Reserve CAPs witness Selwyn testified that the merits of the commitments should be based upon several factors, including: whether the commitments satisfy a net present value analysis; whether they serve a public good; whether the applicant would be the most efficient and appropriate provider; the proposal for cost recovery; whether the undertaking would promote efficient development of the public switched network; the impact on competition; and public support (WR CAPs Ex. 4, at 80).

Western Reserve pointed to the Commission's order in Case No. 92-1149-TP-COI at 17 to counter the objecting parties' view that the commitments in the stipulated plan do not comply with the commitments requirements established in the alternative regulation rules because they do not provide additional benefits, but merely maintain the status quo (WR Brief at 61-62). In the alternative regulation order at 17, the Commission stated that "[t]here may be a need and desire to encourage efficiency, productivity, and value in existing services." Furthermore, the company stated that OCC failed to contradict the fact that all of the commitments set forth in the stipulated plan represent activities which would have otherwise been conducted at the company's discretion or upon the approval of the Commission. The company emphasized that, if the stipulated plan is approved, the commitments contained therein will no longer be an option but will become an obligation (WR Reply Brief at 40).

We have reviewed the company's proposed commitments, in conjunction with the various other components of the stipulation, as well as the plan, and find that the commitments comport with the alternative regulation rules and requirements. As recognized by the company on brief, there is no doubt that the inclusion of these commitments within the stipulated plan obligates the company to achieve the goals set forth therein. We agree with OCC in its observation that a company's commitments should not only be viewed individually, but in their entirety. To do otherwise would be to ignore the benefits which can arise as a result of a plan which has many component parts working together to the benefit of both the company and the customers. When considering the commitment components contained in the plan in their entirety, there is no doubt that they comport with the Commission's stated objectives in this area given the nature of the plan submitted as well as the fact that the commitments are part of a stipulated package approved by many diverse parties and recommended by the staff. We wish to emphasize that each plan of each company will be viewed independently taking into account the totality of the proposals in the plan including the impact of the plan on basic ratepayers, competition, and the goals set forth by the General Assembly in Section 4927.02, Revised Code, and in the Commission's rules.

Responses to the individual arguments and issues raised by the objecting parties to certain of the commitments set forth in the stipulated plan are delineated in further detail below.

a. <u>Rate Adjustments and Mirroring</u>:

As discussed in detail previously in this order, the stipulating parties agreed to certain rates freezes and reductions which are contained within the stipulation, as well as the commitment section of the stipulated plan. OCC argued that the following four rate adjustments presented in the stipulated plan should not be considered as commitments: the elimination of the residential Tel-Touch charge and the waiver of the nonrecurring Tel-Touch charge; the reduction of intrastate, traffic-sensitive, local switching access charges; the implementation of free one-way calling to state-chartered schools; and the reduction of the basic local exchange rate for schools. In OCC's view, these four items are not commitments, but rather they serve to merely bring Western Reserve's rates to a just and reasonable level, which is where those rates should have been pursuant to Section 4905.22, Revised Code, prior to the company's commitment proposals. OCC argued that making rates lawful is not the purpose of the Commission rule requiring that a plan set forth commitments. While some commitments do remain even if these four recommended by OCC were not considered as commitments, in OCC's view the remaining commitments are likewise not really commitments and are vague, illusory, and of minimal value (OCC Brief at 57-59).

The Commission has previously found that the stipulated rate reductions are based upon the record in the complaint proceeding and are reasonable. The stipulating parties have included these rate reductions as commitments. No one contends that there should not be rate reductions. The Commission believes that it is not very productive to argue about whether the rate reductions can be viewed as commitments or not. The important accomplishment of the stipulation is that it reduces Western Reserve's rates as one resolution of a demonstrated excess earnings review. The rate reductions enhance the policy of this state to maintain just and reasonable rates and charges for telecommunication services. Accordingly, the Commission believes that it is the accomplishment, rather than the label put on the rate reductions, that is the important consideration. OCC's objections is unwarranted.

On January 18, 1994, Western Reserve filed an application with the Commission, in Case No. 94-99-TP-UNC, requesting permission to break the intrastate mirroring of the interstate access rates as mandated in the Commission's decision in Case No. 83-464-TP-COI (Subfile C). The company currently participates in both the traffic- and nontraffic-sensitive pools for interstate access revenues which are maintained by NECA on a cost settlement basis. In its application in Case No. 94-99-TP-UNC, the company explained that it would like to file its own interstate, traffic-sensitive access tariff at the FCC which would recover revenues from the interstate jurisdiction based upon the company's costs, and opt out of the NECA traffic-sensitive pool. However, the company is unwilling to file its interstate, cost-based tariff with the FCC unless this Commission permits it to break the intrastate mirroring of the interstate access rates mandated by Case No. 83-464-TP-COI (Subfile C). According to Western Reserve, it would experience a dramatic reduction in intrastate access rates and, thus, revenues, were it required to continue mirroring the interstate access rates for intrastate purposes. Pursuant to the rules of the FCC, the company was to notify the FCC by December 31, 1993, if it intended to withdraw from the NECA traffic-sensitive pool for the tariff period beginning July 1, 1994. However, the company did not provide such notification to the FCC. Therefore, absent a waiver from the FCC, the next available opportunity for such a request will be in December of 1994 for the tariff period beginning July 1, 1995. On January 24, 1994, the IXC Coalition, AT&T, and Sprint filed a joint motion to intervene and a memorandum in support of Western Reserve's application in Case No. 94-99-TP-UNC. The stipulation and the stipulated plan submitted in the cases at hand provide for the discontinuance of the mandate that the intrastate access charges mirror the interstate charges (Jt. Ex. 1, at 10 and Attach. 1, at 6).

Upon consideration of Western Reserve's request in Case No. 94-99-TP-UNC, as well as the provision in the stipulated plan providing for the discontinuance of the mirroring of the interstate, traffic-sensitive access rates at the intrastate level established in Case No. 83-464-TP-COI (Subfile C), the Commission finds that Western Reserve's request is reasonable and should be granted. Accordingly, the IXC Coalition's joint motion to intervene in Case No. 94-99-TP-COI is moot.

b. Retention of Flat-Rate Service:

The stipulated plan provides that, during the initial term of the plan, Western Reserve will continue to provide flat-rate, basic local exchange service (Jt. Ex. 1, Attach. 1, at 5). Western Reserve witness Cornacchione testified that he could not recall any conversations which would suggest that the company was contemplating discontinuing the provision of flat-rate service (Tr. VIII, 74). Thus, OCC averred that a promise not to do something, namely discontinue flat-rate service, which is not even being contemplated by Western Reserve as something the company might do, is not a meaningful commitment (OCC Brief at 59-60). Furthermore, OCC witness Kelsey advocated that flat-rate service should be maintained even beyond the three-year initial term of the stipulated plan (OCC Ex. 9, at 18).

Currently, there is no requirement which prohibits a company from proposing the elimination or modification to the pricing of flat-rate, local service. While OCC may not see Western Reserve's assurance set forth in the stipulated plan as much of a commitment, based on the testimony we heard at the local public hearings in these cases, in addition to the statewide interest in this area which was expressed at our local hearings in Case No. 92-1149-TP-COI, we are confident that consumers would view the company's commitment to maintain the local flat-rate service in its present form and not subject to special price increases or restructuring as quite significant. This commitment is especially reassuring given the ever increasing competitive environment which is causing the LLECs to re-evaluate the manner in which they structure and price their services.

c. Technology Deployment:

In our entry on rehearing in Case No. 92-1149-TP-COI at 13, we stated that enhancements to infrastructure could be a means of providing or enhancing a service as contemplated by our definition of commitments within the alternative regulation rules.

The stipulated plan provides that, in January 1994, Western Reserve will begin to "deploy technology and services within its service territory to provide an advanced network which will provide increased reliability and survivability, the availability of enhanced services, economic development opportunities and increased public safety". As set forth in the stipulated plan, this commitment includes deployment of the following percentages of network capability in 1994, 1995, and 1996, respectively: digital switching capabilities (100% all three years); SS7 capabilities (88.5, 89.5, and 95%); CLASS services (87.2, 88.9, and 95%); enhanced network (6.7, 15.6, and 22.2%); ISDN (32.5, 37.1, and 44.6%); interoffice fiber connectivity (75.6, 90, and 95%); and schools passed by broadband facilities (32, 40, and 42%) (Jt. Ex. 1, Attach. 1, at 5).

On brief, OCC submitted that there are a myriad of problems with the technology deployment commitment. In OCC's view, the illusory nature of the entire commitment for technology deployment underscores the fact that the stipulated plan is not in the public interest because the consumers are not going to receive anything better than what they received under traditional regulation (OCC Brief at 67). For example, OCC cited Western Reserve witness Cornacchione's statement that the company's deployment of digital switching capabilities, to date, is close to 100% (Tr. VIII, 79). From this, OCC concluded that the company's commitment to deploy these capabilities is merely illusory since the goal is already close to being completed (OCC Brief at 61).

OCC argued that, since the deployment of the company's CLASS services is dependent on the deployment of SS7 capabilities, Western Reserve is not really making an additional commitment and the fact that these two items are set forth separately in the stipulated plan is misleading. OCC perceived a similar overlap situation between the deployment of enhanced network and ISDN by the company (Id.).

Specifically, with regard to ISDN deployment, Mr. Cornacchione stated that the ISDN deployment set forth in the stipulated plan refers to the actual capability of providing ISDN and that Western Reserve currently does not have plans to tariff ISDN (Tr. IX, 6). In OCC's view, without a tariff, ISDN capability is meaningless to all customers except the largest and most sophisticated consumers who are cognizant of ISDN and able to negotiate a special contract (OCC Brief at 63).

Western Reserve witness Cornacchione stated that interoffice fiber connectivity would enable the company to "provide a cleaner and distortion-free connection" (Tr. VIII, 84). OCC submitted that, to the extent deployment of this item merely enables the company to improve the quality of its service in order to adhere to the minimum telephone service standards, this commitment is nothing more than what would be done by the company in the ordinary course of its business (OCC Brief at 64).

The last network deployment commitment involves the extension of broadband facilities to schools. According to Mr. Cornacchione, these facilities will be deployed by the company whenever it has new construction that passes any state-chartered school (Tr. VIII, 84). OCC submitted that this commitment is somewhat self-serving to the company because the broadband facilities are only deployed when the company is already engaged in new construction, such deployment is necessary in order for the company to appear to be fulfilling its distance learning commitment, and the company's revenues will be enhanced if the schools utilize the network capability (OCC Brief at 65).

In general, Dr. Selwyn, testifying for the Western Reserve CAPs, stated that the company has failed to provide sufficient documentation in order to enable the Commission to evaluate the proposed infrastructure commitments (WR CAPs Ex. 4, at 4). While company witness Cornacchione testified that the infrastructure investment commitment set forth in the stipulated plan "has been substantially increased as a result of the commitments in access line capability" (WR Ex. 13, at 5), he also stated that he was unable to provide any dollar amount which the technology deployment commitment would represent. Rather, the witness stated that the commitments on infrastructure were reviewed in conjunction with Western Reserve's capital budget and were based on the penetration goals of the available access lines (Tr. VIII, 75).

The stipulated plan provides that the commitment to deploy the technology set forth in the plan shall be considered fulfilled if Western Reserve achieves the yearly projected percentages plus or minus 10 percent (Jt. Ex. 1, Attach. 1, at 5-6). In OCC's view, this flexibility allows Western Reserve to fall far short of the percentages committed to in the stipulated plan without being required to assert any extra effort as a result of the shortfall (OCC Brief at 68).

The stipulated plan provides for the phased implementation of commitments pertaining to the deployment of technology, as well as rate reductions for intrastate access charge rates over the initial term of the plan (Jt. Ex. 1, Attach. 1, at 5-6). The Western Reserve CAPs expressed concern over the fact that the stipulated plan does not provide for notice to the parties in the alternative regulation case and an opportunity for them to be heard at the conclusion of a phase of the plan in accordance with the Commission's entry on rehearing in Case No. 92-1149-TP-COI at 37 (WR CAPs Brief at 7).

The Commission finds the concerns raised by the objecting parties concerning the company's technology deployment commitment to be insufficient to warrant rejection of the stipulation. We agree with the statement made by OCTVA that commitments should be based upon economic reality (OCTVA Reply Brief at 8). The fact that the company had already contemplated or was implementing certain technology at the time of the filing of the stipulated plan is not a sufficient reason, in and of itself, for the proposed commitment to be disregarded. The Commission has already made it clear that a commitment may encompass the efficiency, productivity, and value of existing services, so long as such commitment is in addition to what is provided in the minimum telephone service standards. These technology deployment commitments clearly meet this standard.[5] In addition, as previously pointed out, the inclusion of these commitments of technology advancement obligates the company to achieve the standards set forth in the plan. Absent such an obligation, the implementation and advancement of such technology would be purely discretionary on the company's part. By including the commitments as part of the stipulated plan, Western Reserve will be reporting back to the Commission through its annual progress reports. The Commission will be reviewing and monitoring the progress of the deployment to ensure that the commitments are satisfied.

Furthermore, OCC's allegation that the commitments in this area are illusory due to the overlap in the applicability of many of the technologies is unfounded. As pointed out by the staff, contrary to OCC's assertion, SS7 upgrades are a separate commitment from the deployment of CLASS services because SS7 supports several different applications and services not just CLASS services (Staff Reply Brief at 8). Finally, the fact that many of these items overlap each other merely proves the point that the commitments should not just be viewed individually, but should be viewed in their totality in order to determine their overall benefits.

The Commission does find, however, that OCC's concerns about the tariffing of ISDN should be addressed. The Commission has previously indicated its interest in the deployment of state-wide ISDN. Without a tariff provision for ISDN, the ISDN capability has less value. Accordingly, Western Reserve is directed to file an ISDN tariff within eight months of this opinion and order.

d. Educational Applications/Distance Learning:

The stipulated plan sets forth a number of ways in which the company will initiate and continue to further the deployment of technology associated with distance learning and other telecommunications-based educational applications within its service area. Pursuant to the stipulated plan, this commitment will entail the assignment of a company staff person to promote the distance learning and other educational applications, public forums and educational programs, the deployment of optical fiber, and

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5. Of course, here too the value of a commitment in a plan will be weighed against the other parts of the plan including its impact on basic local exchange rates, competition, and the goals set forth in Section 4927.02, Revised Code, and the Commission's rules. In a stipulated case, the value of the stipulation as a package must also be considered.

assisting and coordinating with school officials, telephone companies, regulators, and other providers of educational technologies in efforts to fulfill this commitment. In addition, the company commits that it will reduce rates for basic local exchange service to schools within its service area, on a per line basis, by an annual aggregate amount of $100,000 (Jt. Ex. 1, Attach. 1, at 8-10).

Upon review of this commitment, OCC maintained that it is merely a restatement of other commitments or a continuation of what Western Reserve is already doing (OCC Brief at 73). OCC witness Kelsey advocated that, while the company should offer assistance, the educators should be the ones advocating the concept to develop distance learning and not Western Reserve (OCC Ex. 9, at 24). However, he also agreed that the provision of the stipulated plan in which the company commits to assisting and coordinating with school officials and to establish forums for the benefit of school superintendents regarding the deployment of distance learning technology achieves his stated objective (Tr. X, 18; OCTVA Brief at 11).

Furthermore, OCC pointed out that, while the company is committing to make the technology available to fulfill the requirements of each distance learning application, company witness Cornacchione indicated that the customer would bear the cost associated with making that technology available (Tr. VIII, 101). Similarly, with regard to distance learning, Western Reserve CAPs witness Selwyn pointed out that Western Reserve failed to certify that the interactive video service which it will offer to schools will be priced at an affordable level (WR CAPs Ex. 4, at 12).

The process set forth in the stipulated plan concerning the distance learning initiative is open to input from the local exchange companies, cable television providers, competitive access providers, and other entities which serve the telecommunications needs of the schools. Thus, in staff's view, this process will promote full and fair competition and will meet the educational telecommunications needs of the schools (Staff Brief at 22).

The Commission is inclined to give little weight to this OCC objection, especially since the representative of the schools, ODOE, supports the stipulation. Further, the Commission disagrees with OCC's assertions pertaining to the efforts which Western Reserve has committed to make during the term of the stipulated plan in order to further the deployment of distance learning and other telecommunications-based educational applications. Bringing the telecommunications information age into the schools throughout the state is a goal which the Commission has long supported and encouraged. The proposal agreed to by the stipulating parties includes characteristics which the Commission believes bring us one step closer to achieving our stated goal. The Commission finds the company's commitment to co-sponsor forums for the benefit of educational providers, along with the cable television companies, other telecommunications, and equipment providers, as well as its commitment to work with educational task forces and other governmental entities in the furtherance of the deployment of the necessary educational technology, to be substantially in keeping with our vision of what a commitment should encompass. As for the concern that the pricing of the educational applications will be at affordable levels, the Commission expects the company, as stated in the stipulated plan, to work with both educators and the Commission in arriving at reasonable arrangements in this area.

e. Extended Local Calling Service:

The stipulated plan provides that the company will file an application with the Commission to implement extended area service (EAS) in the form of one-way, extended local calling service from the Northfield, Twinsburg, and Aurora exchanges to the Akron Exchange. However, if the appropriate authorities do not authorize the implementation of the requested ELCS in these three situations, then the company will allocate an additional $50,000 to telecommunications-based educational applications in each of the exchanges not approved (Jt. Ex. 1, Attach. 1, at 6). OCC pointed out that the ELCS commitment set forth in the stipulated plan falls short of what was proposed by the initial plan, since Western Reserve had initially proposed to provide ELCS in approximately 39 exchange route situations (OCC Brief at 68-69).

At the public hearing held in Austinburg, Ohio, over 60 witnesses testified as to the need for EAS within Ashtabula County in order to enhance the economy and satisfy the community of interest between the various exchanges located in that county. In their brief, the citizens of Ashtabula County stated that the stipulation is grossly inadequate in addressing the EAS needs of customers in Ashtabula County (Citizens' Brief at 1). They encouraged the Commission, in approving the stipulation in this matter, to require Western Reserve to: institute two-way, flat-rate EAS among all of the company's Ashtabula County exchanges; institute one-way, flat-rate EAS from Western Reserve's exchanges to other companies' exchanges in Ashtabula County; and seek agreements with the other companies in Ashtabula County to make the toll-free calling two-way between school districts and ultimately among all Ashtabula County exchanges (Id. at 3).

OCC averred that the Commission cannot find the stipulated plan to be in the public interest without addressing the need of the customers who provided testimony at the public hearing in Austinburg. While OCC does not traditionally take a position on individual requests for EAS, OCC stated that, due to the public testimony in this area, it supports the adoption by Western Reserve of the three-prong commitment advocated by the citizens of Ashtabula County in their brief. In OCC's view, nothing in the Ohio Revised Code prohibits the Commission from expanding the local calling areas through[6] an alternative regulation proceeding (OCC Brief at 80-81).

Western Reserve admitted that, due to the overwhelming testimony at the Austinburg hearings in this matter, upon further study, the calling circumstances in the Ashtabula County area may constitute appropriate circumstances in which the company may be wiling to initiate an EAS case. The company stated that, with the assistance of the appropriate carriers, it is in the process of determining the calling rates for the routes in question (WR Brief at 63).

In staff's view, while requests for EAS should follow the procedures set forth in Chapter 4901:1-7, O.A.C., the record made in this case can be used to support the need to address a perceived need for EAS. Upon review of the requisite calling information and the public interest, staff would recommend that the Commission require the company to initiate an EAS case for exchanges which might meet the requisite showing required by the Ohio Administrative Code. In addition, because of the extensive record developed at the local hearings in this matter, staff would recommend that the Commission take administrative notice of the public hearings in this case and that no additional hearings be required in the EAS cases, unless requested by an interested party (Staff Brief at 26-27). AT&T advocated that the Ashtabula County EAS issue be addressed in an appropriate EAS proceeding and not in the context of this case (AT&T Reply Brief at 6).

The IXC Coalition stated that it is not opposed to the institution of flat-rate EAS. However, in its view, the Commission should not grant countywide, flat-rate EAS, unless there is evidence specific to an exchange that demonstrates a broad-based, day-to-day need for EAS in order to meet the calling need of the exchange and unless a substantial majority of the subscribers in an exchange shows a willingness to pay increased rates reflecting the costs of providing EAS (IXC Coalition Reply Brief at 11-12). Furthermore, the IXC Coalition believes that the 1+ intraLATA access proposal contained in the stipulated plan will give the company's customers, including those in Ashtabula County, rate options which are currently unavailable. The IXC Coalition believes

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6. Despite the overwhelming public testimony to the contrary, OCC maintained throughout this proceeding that a basic rate reduction rather than toll rate relief was what was important to the citizens of Ashtabula County. Although, in fairness, there is some question as to the degree to which the local citizens informed OCC of their views, the public testimony in this record supports the stipulation's concentration on the toll market rather than on OCC's proposed reductions to basic rates.

that the Commission should establish the 1+ intraLATA parity in this situation and then permit the resulting competitive market to work (Id. at 16-17).[7]

The Commission is cognizant of the ever-increasing concern expressed by customers relating to the extent of their local calling areas. In our consideration of requests for extension of the local calling area of an exchange filed pursuant to Section 4905.26, Revised Code, we carefully review all of the community of interest factors and costs, as well as the customers' willingness to pay any applicable increase in rates for service, prior to making any determination as to the merits of such a request. The stipulated plan provides that the company will file applications with the Commission requesting authority to implement ELCS from three of the company's exchanges to the county seat of those exchanges. However, should any of the applications be denied either by the state or federal authorities, the company allocated an additional $50,000 for educational purposes for the routes denied. It is apparent from the alternative language of this commitment that the company recognizes the need for some type of relief in this portion of its service territory.

Furthermore, as brought out at the public hearings held in Austinburg, the customers in Ashtabula County likewise feel that their calling needs should be addressed. The Commission notes that neither the parties objecting to the stipulation nor the citizens of Ashtabula County objected to the ELCS commitment for Summit County set forth in the stipulated plan. Rather, both OCC and the citizens of Ashtabula expressed concerns that the company needs to address the EAS situation in Ashtabula as well. Upon consideration of the company's commitment to offer ELCS from certain of its exchanges, in conjunction with the other terms of the stipulated plan, the Commission does not believe that the stipulated plan should be deemed insufficient merely because it does not include a commitment in Ashtabula County similar to the one presented for Summit County. The Commission believes this issue can be addressed without overturning the stipulation.

The Commission intends on promptly investigating the concerns expressed for EAS relief in Ashtabula County. However, such investigation will not be conducted within the context of this case.

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7. This issue was made much more difficult by the failure of any IXC representatives to appear at the Ashtabula County public hearings to explain their 1+ proposal as a means of providing rate relief to the citizens of the county. The IXCs need to do a better job of communicating their position, along with suggesting alternatives, to those seeking EAS relief. Meeting with EAS spokespersons and attendance at hearings would be an appropriate start along these lines.

As stated by the company, it is already in the process of obtaining the calling information between the involved exchanges in Ashtabula County. Thus, upon review of that information, the Commission expects the company to file company-initiated applications with the Commission to institute EAS between appropriate exchanges in Ashtabula County. Upon receipt of the applications for both Summit and Ashtabula counties, we will review the applications in accordance with the rules set forth in Chapter 4901:1-7, O.A.C., and, where appropriate, we will take administrative notice of the local public hearings in these cases.

As a final matter in this area, the Commission notes that many of the exchanges located in Ashtabula County are provided service by local exchange companies other than Western Reserve, namely The Conneaut Telephone Company (Conneaut), Orwell Telephone Company (Orwell), and United Telephone Company of Ohio (United). Thus, Conneaut, Orwell, and United are hereby ordered to promptly compile the requisite calling information for the Ashtabula County exchanges and provide such information to Western Reserve. In addition, many of the exchanges at issue in both Summit and Ashtabula counties involve interLATA calling, such that adequate calling information can only be obtained by the local exchange companies through collaborative efforts with the interexchange carriers. Thus, the stipulating carriers namely, AT&T, LCI, Allnet, MCI, and Sprint, as well as any other interexchange carrier affiliated with a local exchange company serving the involved areas, are hereby ordered to promptly provide the requisite calling information to the involved local exchange companies and must cooperate fully with the staff and the companies in obtaining and providing the necessary calling information in an efficient and timely manner.

f. <u>Multi-Party Service Phase-Out</u>:

The staff, in its report, noted that just over one percent of the company's residential access lines remained on multi-party services at the end of 1992. Thus, the staff recommended that Western Reserve eliminate all multi-party services and upgrade its customers on those services to one-party service (S.R. at 53). In accordance with the staff's recommendation, the stipulated plan provides that the company will phase-out all multi-party services within six months of the implementation date of the plan (Jt. Ex. 1, Attach. 1, at 6). While OCC views this commitment as insignificant, it went on to state that OCC fails to see how "forcing multi-party customers off their chosen rate and onto the single-party rate 'enhances' their service" (OCC Brief at 70). Conversely, OCTVA pointed out that, while this commitment may be insignificant to OCC, it does promote public safety and improves the universality of the network (OCTVA Reply Brief at 10). The Commission believes that this commitment, as part of the overall stipulation, is reasonable.

g. Customer Communications:

In the stipulated plan, Western Reserve commits to implementing the ALLTEL Customer Satisfaction Monitor (Monitor) process in order to quantify and evaluate customer satisfaction. In accordance with the stipulated plan, "[t]he Monitor process will specifically prioritize features of services and products in terms of their importance to the customer, provide a basis for decision making about goal setting, and resource distribution, and guide product design and communication". The process will consist of a study of the company's customers which will be achieved through a questionnaire developed by focus groups. In addition, the company will be initiating ad hoc research projects in order to gain additional insights where needed (Jt. Ex. 1, Attach. 1, at 7). Pursuant to the stipulated plan, Western Reserve will also set up multiple programs designed to educate its customers on the products and services which are available (Id. at 11).

OCC witness Kelsey identified several problems with the frequency, methods, and analysis of the Monitor process. Specifically, the witness pointed out that Western Reserve has not yet developed the surveys to be used in the process, that the surveys will not produce timely data because they will only be conducted on a biennial basis, and that the company has not yet defined "customer satisfaction" which will be needed in order to determine the measurement of failure or success of the Monitor commitment (OCC Ex. 9, at 19). In reviewing this commitment to customer communication, OCC opined that this item lacks "definitiveness of the incorporation of public opinion from the service results with regard to the technology and service deployment commitment". In OCC's view, this item is nothing more that what the company should currently be doing in the ordinary course of business (OCC Brief at 71).

The Commission believes that public input is an extremely necessary and vital element in the future of the development of the telecommunications industry. The process set forth in the stipulated plan appears to provide the company with a mechanism in which to quantify and evaluate customer satisfaction in order to enable the company to evaluate its services and products in keeping with customer objectives. Furthermore, as clarified by staff on brief, the company will be conducting the customer surveys at least on an annual basis (Staff Reply Brief at 8). Thus, the Commission finds that this commitment is reasonable and sufficient when considered as part of the stipulated plan.

h. Universal Service:

In its report, the staff recommended that the company initiate efforts to further the goal of universal service (S.R. at 46). The stipulated plan sets forth a number of areas which the company